

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

James Reginald Rose,

Plaintiff,

vs.

Lisa Young,

Defendant.

) C/A No. 0:17-2921-RBH-PJG
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ORDER

The plaintiff has filed this action, *pro se*, seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff, an inmate with the South Carolina Department of Corrections, alleges violations of his constitutional rights by the named defendant. The defendant filed a motion seeking sanctions, including dismissal of this action, pursuant to the Rule 37 of the Federal Rules of Civil Procedure for Plaintiff's failure to participate in discovery and comply with an order of the court. (ECF No. 55.)

Federal Rule of Civil Procedure 37(d) provides that a party's failure, after being served with proper notice, to attend his own deposition or to serve responses to discovery may be sanctioned by the court as provided in Rule 37(b)(2)(A). Fed. R. Civ. P. 37(d)(1), (3). Rule 37(b)(2)(A) states that appropriate sanctions for failure to obey a discovery order include "dismissing the action or proceeding in whole or in part;" Id. 37(b)(2)(A). Similarly, Rule 41(b) provides that a complaint may be dismissed for failure to prosecute and/or failure to comply with orders of the court. Id. 41(b). See Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989).

Plaintiff has failed to respond to the defendant's motion. As such, it appears to the court that he does not oppose the motion and wishes to abandon this action.

Based on the foregoing, it is

ORDERED that the plaintiff shall advise the court as to whether he wishes to continue with this case and to file a response to the defendant's motion for sanctions within fourteen (14) days from the date of this order. Plaintiff is further advised that if he fails to respond, **this action will be recommended for dismissal with prejudice pursuant to Rule 37 and/or for failure to prosecute.**

See Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.



Paige J. Gossett

UNITED STATES MAGISTRATE JUDGE

July 31, 2018
Columbia, South Carolina